

# ANSWER

TO

JOHN LYONS

1029.e 6  
14

Very weak Defence of his most  
Wicked, Innovated Oppression.

OR THE  
EXCHEQUER GALLON

Proved to be a Standard only for Dry things.

Or,

A further Manifestation, That the TROY  
Weight, and the Wine Measures, are the  
Standards of *England* for Weights and Measures.

*Written*

In Defence of the Practice of the present  
and all former Commissioners of Excise,  
who have, from the beginning of the Laws of  
Excise, made use of three several Gallons in  
Gaugeing things Excisable, as the Wine Gallons,  
Ale Gallon, and the Corn Gallon.

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*Written by S. S. Philomathematicus.*

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London, Printed in the Year. 1659.

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May it please your worships,

**A**S this Discourse, and the Treatise called, The Cry of the Oppressed, &c. and the Supplement to that Treatise, are nothing else but a Vindication of your Worships Actions before 1656. and of the constant practice of all former Commissioners, for the Excise, even from the beginning of the Laws of Excise. They having, as is very well known, made use of all three Gallons (to wit) of the Wine Gallon, containing 231 Cubical inches, to measure Wine of all sorts, Sops, Oil, Honey, Strong Water, &c. And of the Ale Gallon, containing 288 Cubical inches; for Ale and Beer: And of the Exchequer Gallon, containing 272 Cubical inches, as for Salt, and all drier things Exciseable. And as the Author hath nothing else in design but a Vindication of your Worships former and present Actions, and the manifestation of Truth and Justice; so he hopeth he shall find your Worships Patrons of his paper labours, to whose serious and judicious perusal he humbly Dedicates them: That so your Worships being rightly informed of the diversity and legality of the three Measures, you may at last return to do your first and best works. As it hath been your unhappiness to be the first who by Mr. Lyons false informations and suggestions, did take up this most unequal Gauge, so it may be your Honour to be the first in laying it down;

Nunquam seta est ad bonos mores via.

Yours to serve you in all ways  
of Justice and Righteousness, S. S.

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*An Answer to a foolish Pamphlet, entituled, The Exchequer Gallon Vindicated.*

Worthy Sirs,

**A**S I have met with John Lyon, Couchant, in his close and private Remonstrance delivered in to the Honorable, the Commissioners for bringing in the Arrears due to the Commonwealth; wherein I have detected two notorious untruths offered unto their Honours; as, 1. That the Exchequer Gallon was in use in Broad-street from the beginning of that Office. And Secondly, That four Winchester or Ale quarts, did exactly agree with the Exchequer Gallon. So likewise I having met with Mr. Lyon Rampant in print, or his folly in Folio, I doubt not but as I have made appear, That his Remonstrance was composed of Sophistical Fallacy, and impudent Falstity, so likewise to make manifest, That this piteous Pamphlet is but a confused heap of blind Bayard-like folly, or very

very profound Ignorance, and that which is demon-  
strated by a Syllogism in *Boetius*, then by any serious and solid demonstra-  
tion. But lett *John Lyon* should glory in his Folly, Fallacies and Fal-  
sities, *Confutandi Gratia*, I thus reduce his wild, confused and unigni-  
ficant discourse into these two heads; 1. He endeavours to prove,  
*That the Exchequer Gallon is the true and only Standard Gallon of Eng-  
land, that all things are to be measured by it.* 2. *That the Coopers Bar-  
rels are, and must be made by that Gallon.*

For the manifestation of his first Position he goeth very far, even as  
far as *Magna Charta*, and cites 9 *Hen. 3* cap. 25 which saith, *One  
Measure of Wine shall be throughout our Realm: One Measure of Corn*  
(that is to say) *according to the quarter of London, &c.* And as it is  
of *Weights*, so it shall be of *Measures*; which is as much as to say,  
*Unum pondus, & una mensura sit per totum Regnum nostrum.*

To what purpose he cites this Statute, I cannot tell, unless it be  
to shew, how that the Corn Gallon and the Wine Gallon are all one;  
and so to prove, That the Exchequer Gallon is the Standard Gallon of  
*England*, to measure all things, as Wine, Ale and Corn: Which if  
so, why doth not Mr. *Lyon* measure Wine, Oil and Sope, Strong Waters,  
&c. by that Gallon also; or rather, why do the Commissioners of Ex-  
cise, who are under an Oath to be faithful in their places, do the peo-  
ple of *England* so great an injurie, as to Gauge Wines, Oile, Sope,  
Honey, &c. by the Wine Gallon, containing but 231 Cubical inches,  
and not by the Exchequer Gallon, which contains 272 Cubical inches,  
which Mr. *Lyon* affirms to be a Standard Gallon to measure all things,  
as well liquids as dry? Worthy Commissioners, and singularly learned  
Mr. *Lyon*, I expect your Answer to this, otherwise you must blush at  
such Actings.

2. He cites Statutes made the 17 *Edw. 2* I suppose he means the  
18 *Edw. 2*. as the Ordinance for Bikers, and Brewers, and Victualars,  
and for Ells, Bushels and Forestillers, cap. 8. & 9. which provide,  
*That there shall be Standards of Bushels and Gallons, &c.* But what  
they are, or should be, the new Ordinance there cited, called, *The Or-  
dinance for Measures*, or, as it is stiled in our *Magna Charta, Composi-  
tionum mensurarum*, sheweth; which saith, *That by the consent of the whole  
Realm, the measures of our Sovereign Lord the King was made; (that  
is to say) An English penny called a Sterling, round and without clipping,  
shall weigh 32 wheat Corres in the midst of the Ear, and 10<sup>d</sup> shall make  
an ounce, and 12 ounces one pound, and 8 li. shal make a Gallon of Wine,  
and eight Gallons of Wine shall make a Bushel London, &c.* For what

the Wine Gallon is the Standard Gallon of England, for which I contend.

If he by the Wine Gallon in this Ordinance understands his Exchequer Gallon, why then doth not that Gallon agree with eight pound of Wheat of Troy weight, as this Ordinance doth direct, and according as 12. Hen. 7. cap. 5. doth set forth? If Mr. Lyon seriously compare this Ordinance with the Statute of 12 Hen. 7. cap. 5. he must either recant, or hang down his head like a Bul-rush, as he doth.

*Fortis est Veritas & prevalebit.*

3. He cites 15. 25, 27. Hen. 3. all which Statutes provides, That all Bushels, half Bushels, Pecks, half Pecks, Pottles and Quarts through England, as well within Franchises as without, shall be according to the Kings Standard. Note, these Statutes do not say, According to the Standards, but according to the Standard, which is the Wine Gallon, as in that Ordinance aforesaid: So that the different pottles and quarts, as the Wine quart, and the Ale quart; and so the Wine Gallon, the Ale Gallon, and the Corn Gallon must agree with the Standard, that is, not to be of equal capacity or content, for then all quarts must agree with the Standard Gallon, which we find to be false by experience; for the Ale quart in the Exchequer is of a larger size then the Standard, for it's a fist bigger then the Wine quart, and one 18<sup>th</sup> part bigger then the Corn quart, which agreeth with the now Exchequer Standard Gallon; for 4 Ale Exchequer quarts over-runs the Exchequer Gallon almost half a pint, which is the proportion the Brewers contend for. Yet this Statute saith, *It must be according to the Standard*, that is, it must agree with the Standard according to its aize, which Roger de Hoveden, cited in the Treatise called, *The Cry of the Oppressed*, explaineth to be, *Secundum diversitatem liquorum*, which is the proportion of 4 to 5 &c.

Mr. Lyon proceeds to cite more Statutes, all which he blindfoldly applies to prove the now Exchequer Gallon to be the Standard Gallon for all things; as 15. Rich. 2. cap. 4. 16. Rich. 2. cap. 2. which saith, *There shall be one measure of Wine, Corn, and Ale, and all measures shall be made according to the Standard in the Exchequer*; which Standard is the Wine-gallon mentioned in the old Ordinance for Measures; So that *unum pondus, & una mensura sit per totum regnum nostrum*, must be understood *cum grano salis*. Not that all Measures should be of equal capacitie, or content with the Standard: but according to the Standard, which Expositors expound to be meant *secundum assisam vel proportionem*, which Mr. Lyon by no means will grant. So Roger de Huggden afores-cited doth expound; *Una mensura vini & cervisie*, that is, saith he

saith, *unum pondus*, that he expounds to be *secundum averduisum*  
*mercaturatum*: So the pound Troy, and the pound Aver du pois are  
one, although they differ as four to 5; so likewise *Magna Charta* saith,  
*One Measure, one Weight, one Yard*; yet we know ~~that~~ that are apt to  
shrink are measured by the Ell, which is the proportion of 5 to 4, so  
when *Magna Charta*, and these Statutes do say, *One measure of Corn and*  
*Wine*, it must not be understood one *secundum capacita'em*, but one as  
it is expressed *secundum quaterium Londini*, raised and stricken, which is  
as all Artists do observe the proportion of 28 to 33, as appears in the  
Treatise called, *The crye of the Oppressed*.

Mr. Lyon need make us believe likewise that 11. *Hen. 7. cap. 4.*  
speaks for his Standard, and no other; which is most ridiculously absurd; for  
why then was that Standard Gallon and Bushel, and all Bushels and Gal-  
lons made by it broken and damned the next year, viz. 12. *H. 7. c. 5* when  
the now Exchequer Gallon was made, and it is yet more evident, That  
the Wine Gallon was then the Standard Gallon, for that in that Act it is  
provided, That the liquid or water-measure on ship-board to be used was  
to contain 5 pecks of the Standard, that is 5 pecks Wine-measure, as the  
Liquid or Water-side Bushel used at Bear-key, and Brooks wharf, which  
is called the Winchester and common-bushel, holdeth ten Gallons wine-  
measure, which is 5 pecks of the Wine-Standard, and not 5 pecks of the  
now-Standard in the Exchequer, which then would be a very exceeding  
great Bushel, as is evident.

The now Exchequer Gallon was never made or placed in the Exche-  
quer untill 12. *Hen. 7. cap. 5.* and then, and not till then was made a Stan-  
dard-Gallon for Drie things onely. In *Hac Verba*: *Wherefore the King*  
*our Sovereign Lord, by the assent of the Lords spiritual and temporal, and*  
*the Commons in this Parliament assembled, and by authority thereof or-*  
*daineth, establisheth, and enacteth, That the measure of the Bushel contain*  
*8 Gallons of Wheat, and every Gallon 8 li. of Wheat of Troy-weight, and*  
*every li. contain 12 Ounces of Troy-weight, and every Ounce contain 20*  
*Sterlings, and every Sterling to be of the weight of 32 Wheat corne in the*  
*midst of the ear, according to the old Law of the Land: which old Law*  
*saith expressely that 8 li. of Wheat of Troy-weight shall make a Gallon of*  
*Wine*: So that according to the letter of this Act, this is but a confirma-  
tion of the old Standards, which were the Troy-weight and Wine-me-  
asures, *ut superius*; and therefore a sufficient warrant for your Worships  
to use the Wine-gallon.

Note: This Statute proceeds, and saith; *And that is pleased the*  
*Kings*



*said Affize, to remain in his said Treasury for ever.* Note, It is not said according to the old Laws and Statutes of the Realm as is afore-declared; but after the said Affize, viz. for Drie things: the which this Bushel and Gallon was to measure in Markets, &c. as is at large set forth in the Supplement to the Treatise, called, *The Crie of the Oppressed.*

Thus I have made it appear, that the Troy-weight and Wine-measure were the Standards in the Exchequer until the Statute 12. *Henry 7. cap. 5.* which also confirms them as above is proved, and yet for the preventing of mistakes in fizing of Bushels and Gallons which are half-pecks to be sent to Markets, &c. The Wine-gallon which was *de facto* the Standard in all ages, untill the 12. *Henry 7.* and is now *de jure* by the letter of that Act the Standard of *England*, was thence removed, and this Gallon for drie things onely (which Mr. *Lyon* makes a Gallon for Liquids and Drie things) there placed, for the preventing of mistakes in fizing of Bushels and Gallons to be sent down into the Countreies.

I proceed to Mr. *Lions* Second Undertaking, which is to prove, *That the Coopers Barrells are, and must be made according to the Exchequer Gallon, or Standard.*

That they are made by that Gallon is such a notorious untruth, that I will not take the pains to disprove it. But whether they must be made by that Gallon, is the grand and onely question.

By the 23. *Hen. 8. cap. 4.* It is ordained and enacted, *That every Barrel for Beer shall contain 36 Gallons, every Kilderkin 13 Gallons, &c. of the Kings Standard Gallon, &c.* But there is no other Standard Gallon, saith Mr. *Lyon*: *Ergo.* It's confessed, if a man reads no more of that Act, a learned man then Mr. *Lion* might construe it to be understood of the Kings Standard Gallon of the Exchequer; as was Mr. *Oughtred*, a man whom I admire for his universal skill in all Arts and Sciences. But if Mr. *Lyon* be willing to correct his mistake, and be desirous to be satisfied by what Gallon the Coopers do and must make their Barrells, he must read the latter part of the Statute (*viz.*) this clause; *It is enacted that every Cooper that hereafter shall make any Vessels specified in the said Act, shall from the feast of Michaelmas next coming make every such vessel according to the Affize mentioned in the Treatise called, Compositio Menfurarum: that is to say, Every Barrel for Ale shall contain 32 Gallons of the said Affize, whereof 8 Gallons make the common Bushel.*

Note: This clause is like a Hand to point out by what Gallon the Barrells are to be made, viz. By the Coopers great Gallon of 288 Cubical Inches; for the common Bushel which at this day is in the Exchequer



8 Gallons according to the Standard-gallon, which contain 272 Cubical Inches, 8 Gallons of which makes the Standard Bushel, which at this day is in the Exchequer likewise. Neither must it be understood by the Common Bushel, the Standard Bushel; for then this clause would signifie nothing, but be a Tautologie: and therefore the Coopers whom this clause principally concerns, and who by this Statute are made the Judges of the Content of all Vessels made, by virtue of this Act; and to whom, by this Act, the Sizing and Gaugeing of all Vessels is committed, and for that end have sworn Gaugers and Sealers appointed, do understand it of the Gallon containing 288 Cubical Inches  $\frac{1}{2}$ , and no other, which in the Statute 31. *Eliz. cap. 8.* is called the Standard appointed and allowed for Beer and Ale, of which Standard or Gallon Mr. *Lyon* by no means will take any notice. And the Gallon, *viz.* the Winchester, agreeth with the Coopers Scantlings, as is cleared in the Treatise, called, *The Crye of the Oppressed, &c.*

Further, by no Law your Worships, nor yet any Gauger general, are made the Judges of the Content of the Beer-barrel; and therefore for you to judge any thing to be a Barrel of Beer or Ale other than what agreeth with the Coopers Scantlings (Pardon my boldness) such judgments of yours are void in Law, and reversible; because *coram non iudice*: the Matter and Wardens of the Company of Coopers being the sole Judges of the Content of a Barrel of Beer or Ale, and that by 23. *Hen. 8. cap. 4.*

But that your Worships should be fully satisfied in a point of such grand concernment to the State and People, I shall make it appear, that the Excise is to be paid by that Gallon, containing 288 Cubical Inches,  $\frac{1}{2}$ , and no other; and that by a Proviso of that Ordinance of Parliament made 17 *Octob. 1643.* where it is ordained, *That no Brewer, or Retailer of Beer, or Ale, Perry, Cider, &c. shall take any more in the price thereof, upon the sale of the same commodities, then according to the usual rates and prices appointed by Law for the same (excepting only the rate for Excise) as they will answer their contempt herein to both Houses of Parliament.*

In which Proviso your Worships may observe two things: 1. That the Brewers are to take but the Rate of a Barrel of Beer or Ale Annually set by the Justices, which is this year at ten shillings the Barrel, except it be 2 s. & 6 d. per Barrel for the Excise: This rate is set upon the Coopers Barrels, sealed, marked, and sized according to the Statute, which are made by the Coopers great Gallon, containing 288 Cubical Inches

to sell by no other, therefore he must collect his Excise by them also; and therefore consequently must be gauged by that Gallon, whereof 36 Gallons make that Barrel, which is the Gallon containing 288 Cubical Inches.

2. The Victualler or Retailer of Beer or Ale, by 1 *Jac. cap. 9.* is to sell a full Ale-quart of the best Beer or Ale for a penny, and by this Ordinance he is to take no more then the Excise of that Quart; so that the Victualler is to take his Excise by that Gallon which corresponds with the Ale-quart, which is by all Artists called, the Ale, or Winchester Gallon; and consequently he must receive his Beer and Ale by the same measure, and consequently by the Brewers must be Gauged by that Gallon, whereof 4 full Ale-quarts make the Gallon: *Quid plinius aut p'anius?*

Thus I have, as I humbly conceive, vindicated your Worships from that pitiful scandalous Libel of *John Ly-on*, who in his Title page saith [*Written in behalf of the Common-wealth*] when as it is clear, that Paper doth cast a very great aspersion upon the Commissioners of the Common-wealth for Excise, as if they had betrayed their trust in Gaugeing by *alt* 3 Gallons, when as he saith, The Exchequer Gallon is the Standard Gallon for all Liquids and drie things: So that in effect he doth charge your Worships of cheating the people of this Nation, by Gaugeing most Liquid things; as, Wine, Oile, Sope, Strong-waters, &c. by the Wine-gallon, containing 231 Cubical Inches, when as he saith, they ought to be Gauged by the Exchequer Standard Gallon, containing 272. He chargeth likewise the Master and Wardens of the Company of Coopers, and their sworn Gaugers and Sealers, of Knavery and perjury, for making, sizing, and sealing Barrells that hold some 28, some 39 of his Standard Gallon. He chargeth also the Master and Wardens, and Company of Brewers of Selfishness and dishonesty, for selling 38 Gallons of the Exchequer, whereas he saith, they ought to sell but 36 of those Gallons to the Barrel.

Thus *John Ly-on*, as bold as a Lyon, hath scandalized 3 Worshipful Orders and Societies of men, in his most absurd Libell; which can be no less then *Crimen lesa Majestatis*, and therefore ought to be punished as a Libeller; and to have his impudent forehead Branded with the Letter *L*, whereby he may be known to be a Libeller, as well as a beast of Prey *John Lion*.

*Pudent hac opprobria vobis, dici potuisse & non potuisse refelli.*

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